

**MINERAL COUNTY PLANNING STAFF  
FINDINGS OF FACT**

Warnken's Minor  
June 19, 2018

The proposed Warnken's Minor is a three-lot subdivision and is located at 11241 Southside Road approximately four (4) miles south of St. Regis. The property is located in a portion of Government Lots 2, 3, and 6 of Section 8, Township 17 North, Range 27 West, P.M.M., Mineral County, Montana. The proposal will divide 98 acres into a 50-acre lot and two 24-acre lots. The lots will be developed for single family dwellings and agricultural uses. The access to all three lots will be from Southside Road. The owner of the property is Warnken Inc., represented by Richard Warnken of Superior, Montana.

The property consists of a flat area that has been used for agricultural activities for over 30 years. The property has a developed home site with utilities in the north portion that is currently unoccupied. The proposed lots will also contain areas at the base of a slope that has springtime water areas or actual springs. The sloped area also has tree cover of mixed evergreens with a few tamarack.

The property is accessed from Southside Road which is a county road. Southside Road is co-located within the existing Northern Pacific Railroad right-of-way. The right-of-way is not a 60-foot easement.

A pre-application meeting was held on March 7, 2018, for a proposed three-lot subdivision. The Mineral County Environmental Health and Planning Department received the application for the above-referenced subdivision on April 4, 2018. The element review was to be completed on May 7, 2018, after receipt of the signed application as well as the fees. The fees were received on April 13, 2018. The proposed subdivision will be a minor for review purposes, as a boundary line adjustment was filed in 2001 but is based on erroneous boundary lines. The Warnken's Minor application was determined sufficient on May 25, 2018, and this started the 35-day review period for the governing body to conditionally approve or deny the subdivision. A public hearing has been set for June 28, 2018, for the governing body to act on the proposal. Notice of the public hearing was published on June 6 and 13, 2018. Adjoining landowner notices were sent on June 5, 2018.

Compliance with the Subdivision Regulations for Mineral County and the Towns of Alberton and Superior has been met. Compliance with the Growth Policy for Mineral County and the Towns of Alberton and Superior would generally be met, as there is residential development in this area. The proposed lots one through three will be larger in size compared to the existing lots to the north. The proposed lots one through three will include a steeply forested area that does not meet development standards. No variances were requested for the proposed subdivision.

#### **Effect on Agriculture**

The proposed subdivision will have an impact on the agricultural land that has produced hay crops in recent years. There will be a loss of agricultural production by the development of residential lots one and two. Lots one and two should be considered for restrictive development by locating the structures near Southside Road. The area is classified as open range. An open range statement that details it is the owner's responsibility to fence out livestock should be noted on the plat.

#### **Effect on Local Services**

The subdivision will receive law enforcement services from the Mineral County Sheriff's Department. An increase in demand on the Sheriff's Department will result from the additional residences. Mitigation measures have been proposed. The subdivision is located in the St. Regis Rural Fire District. The fire hall is located on Montana Highway 135 north of the Old Highway 10 intersection and would be approximately four miles from the subdivision to respond to fire suppression calls.

The nearest ambulance service is from the Town of Superior. Future lot owners would access health care from Mineral Community Hospital in Superior or Jack Lincoln Memorial Clinic in St. Regis. Children would attend school in the St. Regis School District and would need to be bussed. Rural mail delivery is available for residences on Southside Road. Proposed lots one and two will require a driveway approach permit from the Mineral County Road Department. Rural mail delivery should be available on Southside Road.

### **Effect on Local Services (continued)**

Future lot owners should participate in improvements to Southside Road in proportion to their impact on the sections of road utilized. Language such as "Acceptance of a deed for a lot within this subdivision shall constitute assent of the lot owner to waive the right of protest to a future Rural Special Improvement District/ Special Improvement District for improvements to Southside Road, including, but not limited to, paving, bridge upgrade, the installation of drainage facilities, curbs and gutters, pedestrian walkways or bikeways, based on benefit; the waiver shall run with the land and shall be binding on the transferees, successors and assigns of the owners of the land," shall be printed on the plat.

### **Effect on the Natural Environment**

The proposed lots do not appear to be subject to potential natural hazards such as rock slides or unstable landforms. No man-made hazards such as high voltage power lines or gas lines were noted. An existing spring is located in the west area of proposed lot one that holds more water in the springtime. Slopes of 25 percent or greater should be noted as no development or disturbance areas.

### **Effect on Wildlife and Wildlife Habitat**

The proposed subdivision will have an impact on wildlife utilization, as it is accepted that residential development affects the use of previously open areas by big game animals. If development occurs in the east most portion of lots one and two, then the big game conflict could be minimized. The lots should be restricted to one single family dwelling or one single family dwelling and one guest cabin type structure. There should be no fencing of the sloped areas to the west on each lot as these areas are heavily utilized by big game animals in the winter and spring green up. Boundary fencing should be large animal compatible that uses smooth wire with no woven wire fencing that would inhibit young animals. Garbage should be stored so as not to attract wild animals.

The allowance of small pets should be restricted to the immediate residential site with appropriate fencing to prevent dogs from chasing wildlife. Domestic large animals should be confined to existing agriculture areas.

### **Effect on Public Health and Safety**

Proposed lots one and two will require a driveway approach permit from the Mineral County Road Department. The site distance is adequate along Southside Road. The existing Southside Road is located in the west portion of the Northern Pacific Railroad right-of-way. If Southside Road was to be upgraded with a wider driving surface, the addition would need to be to the west. A thirty-foot easement should be dedicated to Mineral County from the east boundary of proposed lots one through three. Replacement fencing along the east boundary should be inset to reflect the right-of-way easement if granted to Mineral County.

### **Legal and Physical Access**

The legal and physical access will be from Southside Road that has a road easement right-of-way granted to Mineral County from the Northern Pacific Railroad. The developer shall inform any future lot owners that an address must be assigned by the Mineral County Environmental Health and Planning Department in compliance with the Mineral County addressing plan.

### **Restrictive Covenants**

Covenants were not submitted to the Environmental Health and Planning Department for review. Conditions that pertain to Mineral County shall be noted on the face of the plat.

### **Parkland Dedication**

The proposal is not subject to parkland requirements because of being five or fewer lots.

### **Taxes and Title Guarantee**

All taxes assessed must be paid in full prior to the filing of the final plat in accordance with MCA 76-3-611 (1b). The Mineral County Treasurer shall sign the plat verifying that the taxes have been paid.

The Mineral County Attorney must review and approve the title platting report (title guarantee). If any of the property has a mortgage or lien, a consent-to-plat form must be signed by the holders of said mortgage or lien and the consent-to-plat form filed with the final plat. The title platting report shall also be filed with the final plat.

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### **Mineral County Weed Management Plan**

A revegetation plan that addresses the disturbed areas for driveways and residential construction will be developed and submitted to the Mineral County Weed District for review. The revegetation plan will be submitted to the Mineral County Planner for review prior to final plat approval. The approved plan will be filed along with the final plat (original document).